

REVENUE DEPARTMENT[701]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 46, “Withholding,” and Chapter 231, “Exemptions Primarily of Benefit to Consumers,” Iowa Administrative Code.

To reflect the new language of Iowa Code section 99B.21, paragraph 46.1(1)“e” on withholding income tax is updated to include bingo in the list of gambling activities for which income tax must be withheld on prizes over a certain amount.

Iowa Code chapter 99B, “Social and Charitable Gambling,” was recently revised and reorganized by 2015 Iowa Acts, chapter 99. Two of the Department’s administrative rules were impacted by those changes. Rule 701—231.9(423), which is related to an exemption for the sales price from the sale of raffle tickets, cross-references Iowa Code section 99B.5, which regulated raffles prior to the reorganization of Iowa Code chapter 99B. Beginning July 1, 2015, raffles are regulated under Iowa Code section 99B.24, and the Department’s rule is updated accordingly. Also, the current version of the rule says that these sales are “not subject to tax.” It is more accurate to say that they are “exempt from sales and use tax,” so that language in the rule is updated as well.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than April 4, 2016, to Ben Clough, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457. Alternatively, requests may be e-mailed to ben.clough@iowa.gov. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Interested persons may make written comments on the proposed amendments on or before March 22, 2016. Comments on the proposed amendments should be directed to Ben Clough by e-mail at ben.clough@iowa.gov; by telephone at (515)725-2176; or by mail to Ben Clough, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457.

Requests for a public hearing must be received by March 22, 2016.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that the amendments to these rules are likely to have little or no impact on jobs. The proposed amendments only update the rules to reflect recent changes to the language and organization of Iowa Code chapter 99B.

These amendments are intended to implement Iowa Code sections 422.16 and 423.3(62).

The following amendments are proposed.

ITEM 1. Amend paragraph **46.1(1)“e”** as follows:

e. Withholding from prizes from games of skill, games of chance, or raffles. Every person making any payment of a “prize subject to withholding” must deduct and withhold a tax in an amount equal to 5 percent of the prize from a game of skill, a game of chance, or a raffle. Effective July 1, 2015, any person making any payment of a “prize subject to withholding” for bingo must withhold tax in the same manner

as persons making payments of prizes subject to withholding for games of skill, games of chance, or raffles. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of prizes subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the prize by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph “f.”

“Prizes subject to withholding” means any payment of a prize where the amount won exceeds \$600.

ITEM 2. Amend rule 701—231.9(423) as follows:

701—231.9(423) Raffles.

231.9(1) For raffles conducted prior to July 1, 2015. ~~The~~ Prior to July 1, 2015, the sales price from the sale of tickets for a raffle conducted at a fair pursuant to Iowa Code section 99B.5 is ~~not subject to~~ exempt from sales and use tax.

231.9(2) For raffles conducted on or after July 1, 2015. On or after July 1, 2015, the sales price from the sale of tickets for a raffle licensed and conducted at a fair pursuant to Iowa Code section 99B.24 is exempt from sales and use tax.

This rule is intended to implement ~~2005~~ 2016 Iowa Code subsection ~~423.3(61)~~ 423.3(62).